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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,655	10/04/2001	Viktors Berstis	AUS920010938US1	2026

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EXAMINER

KENDALL, CHUCK O

ART UNIT

PAPER NUMBER

2192

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/970,655

Applicant(s)

BERSTIS, VIKTORS

Examiner

Chuck O. Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/04/02</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This Office Action is the response to the communication received on 12/08/05.
2. Claims 1 – 24 have been amended and are pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5 – 13, and 16 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. US 6,189,146 B1 (art of record) in view of Kobus, Jr. USPN 4,864,494 (art being made of record).

Regarding claim 1, Misra discloses a method for extracting information from a software package, said software package including a number of executable software modules, organized in a manner determined by said identification information, said method comprising:

determining an organization of said executable software modules within said software package (10:20 – 26, see hash values and hash algorithm).

Although, Misra doesn't explicitly disclose extracting said identification information from said organization of said executable software modules within said package, he does disclose using a hash algorithm to produce hash values regarding licenses (10:20 – 26).

However, Kobus Jr. in an analogous art and similar configuration discloses retrieving the encrypted keys (15:32 – 40) of the executable content which is sequentially arranged see (7:50 – 55) also see refer to 11:65 – 12:25, which shows the process of encrypting and producing the keys and identification information which it later decrypts. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Misra and Kobus because, it would enable authorizing use of programs only by a user having a key corresponding to the particular software package with which such key is uniquely associated (Kobus, 3:49 – 55).

Regarding claim 2, the method as set forth in claim 1 wherein said executable software modules are coupled together in a manner representative of said identification information (Misra, 6:58 – 65).

Regarding claim 3, Misra discloses all the claimed limitations as applied in claim 2 above. Although, Misra doesn't not explicitly disclose wherein said executable software modules are coupled together by compiling said software modules into an executable form of said software package, Misra does disclose that the packages are executable images (16:6 – 9). However, Kobus in an analogous art and similar configuration discloses compiling into object code the merged source code creating an object executable code (11:65 – 67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Misra and Kobus, because it would enable the program code to be executable.

Regarding claim 5, the method as set forth in claim 1 and further including:

analyzing said software package to determine an organizational relationship among said software modules (Misra,12:13 – 15); and  
determining said first format from said organizational relationship of said software modules (Misra,14:30 – 40, see determining if software license and comparing ID).

Regarding claim 6, the method as set forth in claim 1 and further including transmitting said organization over a network to a requesting terminal, said requesting terminal being enabled to extract said identification information from said organization of said executable software modules of said software package (Misra,14:30 – 40, see extracting).

Regarding claim 7, the method as set forth in claim 6 wherein said software package is transmitted from a user terminal over an Internet network to a server (Misra,13:24 – 26).

Regarding claim 8, the method as set forth in claim 6 wherei said user terminal is a wireless device (Misra,13:24 – 26).

Regarding claim 9, the method as set forth in claim 6 wherein said user terminal is a personal computer system (Misra,5:12 – 16).

Regarding claim 10, the method as set forth in claim 1 wherein said identification information includes an identification of a user of said software package (Misra, 6:57 – 65).

Regarding claim 11, the method as set forth in claim 1 wherein said identification information includes an identifying number related to said software package (Misra, 6:57 – 65, see product ID).

Regarding claim 12, the method as set forth in claim 11 wherein said identification information further includes an identification of a user of said software package (Misra, 10:57 – 60, see client ID).

Regarding claim 13, the method as set forth in claim 1 wherein said executable software modules are organized in a series of sets of executable software modules, each of said sets comprising a predetermined number of executable software modules (7:43 – 45, see number of licenses).

Regarding claim 16, which is the medium version of claim 1 above, see rationale as previously discussed.

Regarding claim 17, the method as set forth in claim 1 as set forth in claim 16 wherein said medium is an optically encoded disk (Misra, 5:43 – 45).

Regarding claim 18, the method as set forth in claim 1 as set forth in claim 16 wherein said medium is a magnetically encoded magnetic diskette (Misra, 5:45 – 49).

Regarding claim 19, which is the medium version of claim 9 above, see rationale as previously discussed.

Regarding claim 20, the medium as set forth in claim 16 wherein software package resides on a memory device within a computer device (5:15 – 20).

Regarding claim 21, which is the medium version of claim 10 above, see rationale as previously discussed.

Regarding claim 22, which is the medium version of claim 11 above, see rationale as previously discussed.

Regarding claim 23, which is the medium version of claim 9 above, see rationale as previously discussed.

Regarding claim 24, see reasoning in claim 1.

5. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. USPN 6,189,146 B1 in view of Kobus, Jr. USPN 4,864,494 (art being made of record) as applied in claim 2, and further in view of Doherty et al. USPN 6,920,567 B1

Regarding claim 4, Misra and Kobus modified discloses all the claimed limitations as applied in claim 2. The combination of Misra and Kobus doesn't explicitly disclose wherein said executable software modules are coupled together by linking said executable software modules into an executable form of said software package. However Doherty does teach this in an analogous art (Doherty, 15:20 – 30). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Misra and Kobus with Doherty because, it would enable executing a plurality of modules.

Regarding claim 15, Doherty further discloses the method as set forth in claim 13 wherein said first format is other than a binary format, each of said sets comprising a number of said executable software modules other than two, said first format being determined according to an order in which said number of executable software modules are sequenced within said sets of executable software modules (Doherty, 15:3 – 10, see data of any form).

7. Claims 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. USPN 6,189,146 B1 in view of Kobus, Jr. USPN 4,864,494 (art being made of record) as applied in claim 13 in view of Nabahi. USPN 6,006,035.

Regarding claim 14, Misra and Kobus discloses all the claimed limitations as applied in claim 13 above. The combination of Misra and Kobus doesn't explicitly disclose wherein said series of sets corresponds to a binary series. However, Nabahi does disclose a compiler that uses .INS instruction files that cannot read or be modified using a standard ASCII editor. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Misra and Kobus with Nabahi because, using binary files would make the instructions compatible with the underlying hardware since binary instructions are machine level code.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1 – 24 have been considered but are moot in view of the new ground(s) of rejection. The art being made of record Kobus USPN 4,864,494 discloses the new limitations.

### **Correspondence information**



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9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached on 10:00 am - 6:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.



TUAN DAM  
SUPERVISORY PATENT EXAMINER